

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
The Development of Operational,)
Technical, and Spectrum Requirements)
for Meeting Federal, State and Local)
Public Safety Agency Communication)
Requirements Through the Year 2010)

WT Docket No. 96-86

To: The Commission

REPLY COMMENTS OF
NIPPON TELEGRAPH AND TELEPHONE CORPORATION

Nippon Telegraph and Telephone Corporation ("NTT"), by its attorneys, hereby replies to the initial comments filed in the instant proceeding. Those comments strongly support the position presented by NTT in its initial comments: that public safety agencies will benefit from the establishment of spectrum efficiency standards and incentives for transitioning to more spectrally-efficient technologies, and the maintenance of a competitive marketplace with flexible, technologically-neutral regulatory standards.

I. SPECTRUM EFFICIENCY STANDARDS ARE NECESSARY.

The comments filed in this proceeding, in addition to the findings of the Public Safety Wireless Advisory Committee ("PSWAC") (Final Report of the Public Safety Wireless Advisory Committee ("PSWAC Report") (1996)), conclusively demonstrate the need to remedy the problems presented by the acute spectrum congestion experienced by many public safety

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agencies. NTT agrees with the conclusion of the commenters^{1/} and the PSWAC^{2/} that, in addition to any new allocation of spectrum, transition to the use of advanced spectrum-efficient technologies will be necessary to meet public safety agencies' communications needs.

NTT asserted in its initial comments that, in order to expedite the transition to use of more spectrum-efficient technologies, the Commission must establish a date certain for conversion to narrowband or narrowband-equivalent technologies. Many of the commenters in this proceeding concurred.^{3/} For example, APCO noted that the "present 'Refarming' efforts for existing spectrum offer little in the way of short term alleviation of severe overcrowding."^{4/} Los Angeles asserted that "[t]he Commission's current reliance on equipment type-acceptance could allow a few small agencies in a metropolitan area to remain on current wideband channels indefinitely, thus preventing others from realizing the benefits of spectrum refarming."^{5/}

For the same reasons, NTT further contends that the Commission should establish a date certain for conversion to very narrowband (5.0 or 6.25 kHz) or very narrowband-equivalent

^{1/} See, e.g., Associated Public-Safety Communications Officers ("APCO") Comments at 20; City of Dallas, Texas ("Dallas") Comments at 7; Ericsson, Inc. ("Ericsson") Comments at 30; County of Los Angeles ("Los Angeles") Comments at 6; Texas Department of Public Safety ("Texas") Comments at 7.

^{2/} See PSWAC Report at ¶ 3.1. Additionally, in estimating public safety wireless communications' spectrum needs, the Spectrum Requirements Subcommittee assumed that smaller channels would be used in the near future. See PSWAC Report at ¶ 4.4.5. This is further evidence of the absolute necessity of moving to more spectrally-efficient technology as soon as possible.

^{3/} See APCO Comments at 17; Ericsson Comments at 30-31; Los Angeles Comments at 6; County of Orange ("Orange County") Comments at 3; Texas Comments at 7.

^{4/} APCO Comments at 17.

^{5/} Los Angeles Comments at 6.

technologies. As demonstrated in detail in NTT's initial comments, these technologies currently either are presently available or will be in the very near term, and their use would provide both immediate and long-term relief for much of the current spectrum congestion.

Furthermore, as evidenced by many of the comments filed in this rulemaking, the Commission should encourage users to move to more spectrum-efficient technology as soon as possible by providing them with incentives.^{6/} NTT strongly urges the Commission to consider adopting a number of the incentives suggested by commenters in this proceeding, including providing users of spectrally-efficient systems with exclusivity^{7/} and priority access to spectrum licensing and assignment.^{8/} In addition, the comments demonstrate that the Commission should limit access to any new allocations to those who will utilize spectrally-efficient systems, and not allow users to avoid adopting more spectrally-efficient systems simply through grants of additional spectrum.^{9/}

^{6/} See Ericsson Comments at 26; New York City Transit Authority ("New York City Transit") Comments at 10; State of Ohio, Department of Administrative Services ("Ohio") Comments at ¶72(f); Securicor Radiocom Limited ("Securicor") Comments at 6; Wisconsin State Patrol ("Wisconsin") Comments at 2; International Municipal Signal Association/International Association of Fire Chiefs, Inc. ("IMSA/IAFC") Comments at 20.

^{7/} See, e.g., Ericsson Comments at 26; Wisconsin Comments at 2; IMSA/IAFC Comments at 20.

^{8/} New York City Transit Comments at 10.

^{9/} See American Association of State Highway and Transportation Officials ("AASHTO") Comments at 15.

II. FLEXIBLE REGULATORY SCHEMES WITH TECHNOLOGY-NEUTRAL STANDARDS BEST PROVIDE FOR USERS' VARIED NEEDS.

A. Users Have Varied Needs.

The comments filed in this proceeding provide overwhelming evidence of the great variation among public safety users' needs and budgets.^{10/} As explained by Ericsson, public safety agencies' communications needs "are extremely varied in terms of unique, mission specific requirements, operating environments, and geographic coverage needs."^{11/} Therefore, as the Northern California Chapter of APCO concludes: "There is no single technique nor type of system that best fits all needs. Systems must be tailored to fit a variety of needs, and there will always be a need for small simplex systems, just as there will be a need for large trunked systems."^{12/} Consequently, the Commission should create a flexible regulatory environment, requiring a move to more spectrum-efficient technology, but not mandating the use of any particular technology. Flexible regulatory standards should allow users to implement whatever spectrally-efficient systems they decide will best meet their unique needs.

B. Competition Benefits Users.

As confirmed by a strong majority of the commenters in this proceeding, in addition to allowing users maximum flexibility in deciding how to meet their own needs, flexible

^{10/} See, e.g., City of Fort Worth, Texas ("Fort Worth") Comments at 8; National Association of State Telecommunications Directors ("NASTD") Comments at 11; New York City Transit Authority ("New York City Transit") Comments at 6; Northern California Chapter of the Association of Public/Safety Officials, Inc. ("NCAPCO") Comments at 9; Ohio Comments at ¶ 3; Orange County Comments at 2; John S. Powell Comments at 16; United States Department of Transportation ("DOT") Comments at 12.

^{11/} Ericsson Comments at 25.

^{12/} NCAPCO Comments at 9.

regulatory standards, without any mandated technology, will increase competition in the marketplace for public safety wireless communications equipment.^{13/} Competition benefits users by ensuring lower prices and greater feature selection, and by forcing manufacturers to remain responsive to users' needs. Without an actively competitive marketplace, manufacturers would have no incentives to advance the state of the art or to invest in research and development of new technologies.

As advanced by several of the parties in this proceeding, the APCO Project 25 process may lead to greater competition in many aspects of the public safety wireless communications marketplace.^{14/} Because the Project 25 standard requires manufacturers holding intellectual property rights ("IPR") essential to the Project 25 standard to license that IPR to other manufacturers under fair and reasonable terms and conditions, it may increase competition in the market for replacement parts and upgrades and provide new manufacturers with opportunities to enter the public safety wireless communications market.

However, as explained by a number of commenters, including the APCO Project 25 Steering Committee, the APCO Project 25 standard was never intended to be more than a voluntary standard.^{15/} There are a number of reasons why a voluntarily-created standard (or no standard at all), rather than a mandated standard, will best suit users' needs. First, as noted earlier,

^{13/} See, e.g., Ericsson Comments at 24-25; IMSA/IAFC Comments at 19; NCAPCO Comments at 14; Ohio Comments at ¶ 3; Fort Worth Comments at 12; TIA Comments at 8-9.

^{14/} See, e.g., State of California, Department of General Services Telecommunications Division ("California") Comments at 22-23; Motorola Comments at 14; NCAPCO Comments at 14; APCO Comments at 28-29.

^{15/} See, e.g., APCO Project 25 Steering Committee ("APCO Project 25") Comments at 11; NASTD Comments at 11; Motorola Comments at 21; NCAPCO Comments at 14; APCO Comments at 30-31.

and as is supported by virtually all of the commenters in this proceeding, users' needs vary dramatically. Accordingly, as asserted by Ericsson, "it is highly unlikely that any single ('one size fits all') solution (or even a governmentally limited set of solutions) will adequately serve the needs of all public safety and public service entities."^{16/} Mandating a standard would discourage manufacturers from investing in research and, consequently, from creating more advanced technology in the future. The Commission should welcome competition and refrain from mandating any specific technology.

III. THE COMMISSION SHOULD GIVE USERS FLEXIBILITY IN MEETING THEIR INTEROPERABILITY NEEDS.

The comments filed by land mobile radio users show that, in general, interoperability between public safety agencies is beneficial.^{17/} However, the comments illustrate that because of, inter alia, budgetary priorities and current system designs, each public safety user has distinct interoperability needs that can not be met by simply mandating use of a single technology for interoperability purposes.^{18/}

^{16/} Ericsson Comments at 25. See also AASHTO Comments at 18; Ericsson Comments at 25; IMSA/IAFC Comments at 19; NCAPCO Comments at 6.

^{17/} See, e.g., Dallas Comments at 4; NCAPCO Comments at 14; Fort Worth Comments at 3; Office of the Hennepin County Sheriff ("Hennepin County") Comments at 3.

^{18/} See Dallas Comments at 3; Fort Worth Comments at 3; IMSA/IAFC Comments at 11; City of Mesa, Arizona ("Mesa") Comments at 4; Motorola, Inc. ("Motorola") Comments at 8-9; NCAPCO Comments at 10; Ohio Comments at ¶ 38; John S. Powell Comments at 16; Texas Comments at 3.

There is wide agreement that creating nationwide mutual aid channels would be beneficial and that a single technology must be selected for use on these channels.^{19/} NTT supports the creation of national mutual aid channels and believes that any technology selected for use on these channels should be selected through a fair and open process. However, because users' interoperability needs and budgets vary, the Commission should not mandate that this technology be included in all public safety wireless equipment.^{20/} As with all other service features, the Commission should allow for the ability to use nationwide mutual aid channels, but should not require that all public safety users be equipped to utilize these channels. Mandating that this technology be included in public safety equipment -- as opposed to simply being available as a customer option -- should not be necessary; as evidenced by the interest presented in this rulemaking, user demand will ensure that manufacturers will produce appropriate equipment.

Beyond allocating spectrum for national mutual aid channels and selecting a technology for use on those channels, the vast majority of the commenters in this proceeding agree that the Commission should not mandate use of any technology in an attempt to achieve interoperability.^{21/} As discussed above, mandating a technology would restrict competition and effectively stifle potential future technological advances. Additionally, because users have such

^{19/} See, e.g., AASHTO Comments at 8-9; APCO Comments at 9; Ericsson Comments at 14; The Federal Law Enforcement Wireless Users Group ("FLEWUG") Comments at 11; Mesa Comments at 8; Minnesota Department of Transportation ("Minnesota") Comments at 4; NASTD Comments at 4.

^{20/} See AASHTO Comments at 9; California Comments at 8; IMSA/IAFC Comments at 14; NASTD Comments at 7; NCAPCO Comments at 14.

^{21/} See, e.g., AASHTO Comments at 10; IMSA/IAFC Comments at 11, 14, 19, 24; NASTD Comments at 11; NCAPCO Comments at 5, 14; Ohio Comments at ¶ 67; Securicor Comments at 5; Telecommunications Industry Association Mobile and Personal Communications Division ("TIA") Comments at 8-9; Transcript International Inc. ("Transcript") Comments at 5; DOT Comments at 12.

diverse and ever-changing needs, a mandated technology would not allow users to select the technologies that best meet their needs.^{22/}

Furthermore, there are a number of currently available options for users if they determine that interoperability with any other particular users would be beneficial. Many users are utilizing (or planning to utilize) a variety of different means tailored to meet the distinct interoperability needs of their locality, region or state.^{23/} For example, some users are opting for trunked systems,^{24/} some are utilizing state or local mutual aid channels,^{25/} and some are using cross-band repeaters.^{26/} Because there are many different options available, and because different options are better suited to the needs of differing groups of users, NTT urges the Commission not to mandate the use of any technology or any particular system for interoperability purposes.

^{22/} See, e.g., Fort Worth Comments at 3; IMSA/IAFC Comments at 11; Mesa Comments at 4; Motorola Comments at 8-9; NCAPCO Comments at 10; Ohio Comments at ¶ 38; John S. Powell Comments at 16; Texas Comments at 3.

^{23/} See, e.g., Fort Worth Comments at 3; Mesa Comments at 4; Ohio Comments at ¶ 38; Texas Comments at 3.

^{24/} See, e.g., Fort Worth Comments at 1; Mesa Comments at 2-3; Minnesota Comments at 3; State of New Hampshire ("New Hampshire") Comments at 3; State of New York, New York State Police ("New York") Comments at 2; Ohio Comments at ¶ 1; Wisconsin Comments at 1.

^{25/} See, e.g., Ohio Comments at ¶ 21; Minnesota Comments at 3.

^{26/} See, e.g., DOT Comments at 9-10.

CONCLUSION.

Based on the foregoing, NTT urges the Commission to adopt a new regulatory structure for public safety wireless communications that incorporates the points discussed above.

Respectfully submitted,

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